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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,499	11/21/2003	Friedreich O. Heimers	5010-1007	7603

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EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,499

Applicant(s)

HEIMERS, FRIEDREICH O.

Examiner

Mitra Aryanpour

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-14 is/are rejected.
- 7) ☒ Claim(s) 5 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 19 February 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.
2. Applicant cannot rely upon the foreign priority papers to overcome this rejection because a translation of said papers has not been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

Drawings

3. The drawings are objected to because under 37 CFR 1.84 because the character of lines, numbers & letters are not uniformly thick and well defined in figures 1-31; the numbering, letters & reference characters are not plain and legible in figures 1-31; numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height in figures 1-31; and the drawing scale is not large enough to show drawing details in figures 1 and 31. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The above objection(s) to the drawings will not be held in abeyance.

NOTE: The drawings have not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the drawings.

Specification

4. The disclosure is objected to because of the following informalities: In page 1, line 22, reference has been made to Mexican Patent No. MX-A-36717. We are unable to access this patent therefore, we cannot review the referenced patent. Please provide a copy of the above

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referenced patent; on page 4, lines 10 and 11, no clear meaning can be derived from "...retrieval device due to the formation of eyes."; on pages 4-7 the description for figures should end with a period not a ":" as in the description for Fig. 1 or ";" as in the remaining descriptions; throughout the application Specification reference has been made to "resp." no clear meaning can be derived; also through out the Specification reference has been made to "prolongations" no clear meaning can be derived. Appropriate correction is required for the above objections.

NOTE: The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

5. Claims 1-14 are objected to because of the following informalities: in claim 1, line "A" should be inserted before "ball retrieval" and "where" should be changed to "wherein". In claim 5, it is unclear what "it" is referring to. Additionally, in claim 11 reference has been made to "resp." no clear meaning can be derived; also through out the Specification reference has been made to "prolongations" no clear meaning can be derived. Additionally, the language for defining the various elements should remain consistent in the specification and claims. Therefore, in claim 1, line 9 the term "a device for guiding" should reflect the term "said guiding device" in line 18. Appropriate correction is required for the above objections.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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7. Claims 4, 6, 7, 9-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "said helical recess" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said helical recess" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitation "said helical groove" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "said helical recess" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "the tennis racket type" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 recites the limitation "its handle" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the impact surface" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 9-11 are incomplete, vague and indefinite. The preamble is directed to "a game appliance of the tennis racket type". Unclear as to what "a game appliance is".

Claims 12-14 are incomplete, vague and indefinite. The preamble The recitation of "application of the ball retrieval" and "application of the game appliance" respectively in the preamble of claims 12-14, which renders the claim indefinite, since the preamble is conveying

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that the claims are method type claims, but the body of the claim provides no steps for utilizing the application. Therefore, it is unclear what method/process applicant is intending to encompass.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-4, 8, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chun et al (3,876,162).

Regarding claim 1, Chun et al shows a ball (golf ball 34) retrieval device comprising a line (32) retained in a thread storage device comprising a spool (winding drum 25) having a recovery element (return spring 8); a carriage (line guide 10) including a device for guiding (line guide follower 13) the line (32); a driving device (drive gear 16) operatively connected to the spool (winding drum 25) so that the line (32) can be wound and unwound while tensioning the recovery element (return spring 8), the winding operating being controllable by the guiding device (line guide follower 13). Chun et al does not disclose expressly the material of which the line is formed. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to form the line from rubber, because Applicant has not disclosed that forming the line from rubber, provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either the line taught by

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Chen et al or the claimed rubber line because both lines perform the same function of automatically retrieving a ball. Therefore, it would have been an obvious matter of design choice to modify Chen et al to obtain the invention as specified in claim 1.

Regarding claim 2, Chen et al shows the guiding device (line guide follower 13) comprises a deflecting arrangement (see column 2, lines 34-45).

Regarding claims 3 and 4, Chen et al further shows the spool (winding drum 25) includes a polyhedral in-cross section groove-shaped helical recess in its surface (best seen in figure 1).

Regarding claim 8, Chen et al shows a brake device (the broadest reasonable interpretation of *brake device* would include the main pedal 1).

Regarding claims 12 and 14, as best the claims are understood Chen et al shows the device is used for automatically retrieving a golf ball when practicing golf.

Allowable Subject Matter

10. Claim 5 would be allowable if rewritten to overcome the claim objection(s), set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

11. Claims 6 and 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 10:00 to 6:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA
23 June 2005



MITRA ARYANPOUR
PRIMARY EXAMINER